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STATE FOR AC/CB, NP/CBM, VC/CCB, L/ACV, IO/S
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JOINT STAFF FOR DD PMA-A FOR WTC
COMMERCE FOR BIS (GOLDMAN)
NSC FOR CHUPA
WINPAC FOR LIEPMAN

E.O. 12958: N/A

TAGS: [PARM](#) [PREL](#) [CWC](#)

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): WEEKLY WRAP-UP
FOR 19 MARCH 2004

This is CWC-38-04.

ARTICLE IV/V CONSULTATIONS COLLAPSE

[11.](#) (U) The facilitator for consultations on improving the funding mechanism for Article IV and V verification costs, Johan Verboom (Netherlands), told us on March 18 that he hoped to reach consensus on a decision document for consideration at Executive Council Session 36 the following week. Instead, that day's discussion revealed that delegations were far from consensus. With obvious frustration, Verboom cancelled the meeting scheduled for the following day and said work would resume after EC-36.

[12.](#) (U) Initial comments on the March 15 draft decision (e-mailed to AC/CB) were generally positive, and the extent of delegates' unease with the draft only became evident gradually over three hours of consultations. USDel noted that it was a considerable improvement over earlier drafts, and would likely be acceptable once questions over the financing and exact level of the Working Capital Fund (WCF) were addressed. At USDel's request, the Technical Secretariat (TS) provided figures on how much of previous

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years' surpluses could be used to plus-up the WCF to a higher level. The TS explanation was that 2 million Euros from 2001, 3 million from 2002, and an anticipated 5 million from 2003 would be available to fund the WCF.

[13.](#) (U) Further queries and misgivings voiced by other delegations halted the momentum of the discussion and ultimately forced the issue off the agenda of EC-36.

- Mark Matthews (UK), Ian Mundell (Canada), and several others called for strengthening the draft formulation that the costs of verification must be "paid in a timely manner" by possessor states. Peter Beerwerth (Germany) called for language requiring repayment within 60 or 90 days of the receipt of invoices for verification costs. (There followed discussion about the length of the window and whether the clock should begin ticking upon carrying out verification activities or invoicing them.) USDel cautioned that language imposing a specific deadline for Article IV/V repayments would require us to hold up and possibly block consensus. Russia also put down a marker opposing specific deadlines.

- Gianpaolo Malpaga (Italy), seconded by Brazil and France, persisted in questioning the need to increase the WCF to the new target level of 10 million Euros. Although Malpaga had raised this objection in all previous discussions, Verboom had thought that he was persuaded by the increasingly detailed explanations of OPCW Director of Administration Herb Schulz that it was necessary to ensure adequate funding for OPCW activities over and above the one-month operating expenses that most organizations' Working Capital Funds covered. Instead, Malpaga indicated that he would block consensus on both that point and on doubling the WCF cap from one-twelfth to two-twelfths of the budget.

- Yu Dunhai (China) re-iterated questions he had raised in earlier sessions about how the draft decision would resolve the problem of "fictitious income," payments anticipated from possessor states for verification activities that were planned but ultimately not carried out. Canada, Austria, and others amplified those concerns, despite the fact that the group had deliberately chosen to focus only on the cash-flow dimension of the Article IV/V issue at the onset of the consultations, and not to address the broader problem of fictitious income.

- Chiho Komuro (Japan) who had voiced support for the draft decision, asked how replenishment of the WCF would affect the rule that budget surpluses should be returned to States Parties. India drew on Verboom's answer to question the formula by which States Parties would be refunded from the

surplus. This seemingly esoteric issue led to the collapse of the discussion, as Beerwerth seized on it, discovering "an inherent problem of inequity." Since some countries failed to pay their assessments, he explained, they had thereby reduced past years' surpluses that were to be used to fund the WCF. Beerwerth insisted that the current draft decision "will not work" we need to look at the decision in much more detail," to prevent this inequity. The response was bewilderment and resignation. Ambassador Marc Vogelaar (Netherlands) opined to us that delegations were "hiding behind the complexity" of the issue to block a deal. Although Verboom and Schulz appealed to delegates not to derail the "good current proposal in pursuit of a perfect solution," the consultations collapsed on that note. Beerwerth told DelOff that he would take the issue up with AC/CB during his participation in Quad talks in Washington. Verboom said he would work with the TS and interested delegations to draft a new text for consideration in April.

FINANCIAL REGULATIONS

14. (U) On March 16, facilitator Peter van Brakel (Canada) held discussions on proposed changes to the financial regulations. During discussion of regulation 12.1, USDel raised the proposed language on Rule 12.2.01 provided by Washington. Russia spoke out in support of the proposal, and there was general support. Italy, however, expressed an initial, negative reaction and said it would have to refer the proposal to Rome. With suggestions from the facilitator and other delegations (in caps), the consensus was for Rule 12.2.01 to read:

"The primary responsibility for monitoring rests with management. OIO's role is to assist THE PROGRAM MANAGERS in improving the monitoring function INITIALLY through the issuance of policies, guidelines and performance indicators, and REGULARLY through regular assessment of the quality of management reports concerning monitoring activities."

15. (U) There were no objections to the proposed change to regulation 12.3. On regulation 12.4, USDel noted that the existing language provides the External Auditor full access to all documents, and any change would imply less than full access. That met with agreement from all delegations. Italy suggested one small modification, so that the existing language is modified to read "Reports on each separate audit, inspection, evaluation, investigation AND MONITORING shall be submitted..."

16. (U) Turning to regulation 6.2, USDel noted the proposed changes to reflect the use of the accrual basis. The FRG proposed a variation on the first option provided by Washington. However, there was inconclusive discussion over whether the proposed change regarding miscellaneous income should be "... received during and for the financial period ..." or whether it should simply be "for the financial period."

17. (U) On regulation 6.3, the FRG proposed Washington's change to drop the word "assessed" and add a reference to regulation 5.1. However, Russia raised the issue of "arrears" under regulation 6.3(c), noting that if there are disputes on Article IV/V bills, they remain outstanding. The TS may consider them "arrears," but Russia does not. Several

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delegations expressed appreciation for that view.

18. (U) Javits sends.
SOBEL